In the High Court of Punjab and Haryana, Chandigarh

I.T.R. No. 73 of 1995

Date of Decision: 9.5.2007

The Commissioner of Income Tax, Patiala …Petitioner

Versus

M/s Ganesh Rice Mills, Barala …Respondent

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR
HON'BLE MR. JUSTICE RAJESH BINDAL

PRESENT: Mr. Yogesh Putney, Advocate,
for the revenue.

JUDGMENT

M.M. KUMAR, J (Oral)

Following question of law, arising out of order dated 21.7.1994, passed by the Income Tax Appellate Tribunal, Chandigarh Bench, in I.T.A. No. 1164/Chandi/89, in respect of assessment year 1983-84, has been referred for opinion of this Court:-

> "Whether, on the facts and in the circumstances of the case, the Income Tax Appellate Tribunal was right in law in deleting the penalty levied by the Assessing Officer u/s. 271(1)(c) on the ground that the same was not exigible since the addition on the basis of which penalty was imposed has been quashed by the ITAT whereas the order of the ITAT in quantum appeal has not been

accepted by the Revenue and is being contested in R.A. u/s 256(1)?"

It may be mentioned at the outset that the question with regard to deletion of addition of amount of Rs. 2,42,577/-, had been referred by the Tribunal to this Court in R.A. No. 5/Chandi/94 and the levy of penalty was consequential to the quantum appeal. The aforementioned question in the quantum proceedings has been decided against the revenue by a Division Bench of this Court in the case reported as **Commissioner of Income Tax v. Ganesh Rice Mills, (2006) 280 ITR 409**. As a consequence of decision of quantum reference against the revenue, the instant reference has been rendered infructuous and the same is dismissed as such.

(M.M. KUMAR)
JUDGE

(RAJESH BINDAL)
JUDGE

May 9, 2007
Pkapoor